

RFP ATTACHMENT 2
CONTRACT SPECIAL CONDITIONS



RECOVERY.GOV

IOWA DEPARTMENT OF NATURAL RESOURCES
CONTRACT NUMBER *(Contract Number)*

Between

IOWA DEPARTMENT OF NATURAL RESOURCES
And
(Contractor Name)

This Contract was approved by the *(Commission)* on *(Commission Approval Date)*.

IN WITNESS THEREOF, the parties hereto have executed this Contract on the day and year last specified below.

DEPARTMENT OF NATURAL RESOURCES

By: _____
Patricia L. Boddy
Deputy Director

Date: _____

By: _____
(Contractor Name)

Date: _____

Fed Tax I.D. Number: (Contractor Tax ID No.)

PROFESSIONAL SERVICES SPECIAL CONDITIONS

This Contract is entered into between the State of Iowa, acting through the Iowa Department of Natural Resources (DNR) and **(Contractor Name)**.

The State of Iowa has entered into Cooperative Agreement (Federal Award) No. 2L-97706401 with the U.S. Environmental Protection Agency (EPA) for the purpose of accomplishing the objectives of the Iowa LUST Program – American Recovery and Reinvestment Act Project (Iowa LUST ARRA Project). This contract is entered into in furtherance of the performance of the work provided for in the Cooperative Agreement.

The parties agree as follows:

Section 1 IDENTITY OF THE PARTIES

1.1 Parties. DNR is authorized to enter into this Contract. DNR's address is: 502 East 9th Street, Des Moines, Iowa 50319-0034.

(Contractor Name), a **(Contractor Legal Entity Type)** is organized under the laws of the State of **(Name of State)** and is registered with the Iowa Secretary of State. The Contractor's address is: **(Contractor's Address)**.

1.2 Project Managers. Each party has designated a Project Manager, who shall be responsible for oversight and negotiation of any contract modifications, as follows:

DNR Project Manager:

(DNR Project Manager Name)

DNR

502 East 9th Street

Des Moines, IA 50319-0034

Phone: **(DNR Project Manager Phone)**

Fax: **(DNR Project Manager Fax)**

Email: **(DNR Project Manager Email)**

Contractor Project Manager:

(Contractor Project Manager Name)

Phone: **(Contractor Project Manager Phone)**

Fax: **(Contractor Project Manager Fax)**

Email: **(Contractor Project Manager Email)**

Section 2 STATEMENT OF PURPOSE

2.1 Background. The United States Congress passed the American Recovery and Reinvestment Act of 2009 which included \$200 million for LUST cleanups. The primary purpose of this money was to provide economic stimulus with a secondary benefit of providing funds for LUST cleanup activities. The Environmental Protection Agency (EPA), Office of Underground Storage Tanks (OUST) distributed these funds to the states to be spent to assess and clean up petroleum contamination from federally-regulated underground storage tank sites where responsible parties are unknown, unwilling or unable to pay for cleanup activities or in cases of emergency. The state of Iowa was awarded up to \$2,643,000 of Leaking Underground Storage Tank (LUST) Trust Funds to assess and clean up petroleum, methyl tertiary-butyl ether (MTBE), 1,2-dichloroethane (1,2-DCA), and ethylene dibromide (EDB) contamination. This project is referred to as the Iowa LUST Program - American Recovery and Reinvestment Act Project or Iowa LUST ARRA Project.

2.2 Purpose. The purpose of this contract is to provide the services necessary to complete the objectives of the Iowa LUST Program - American Recovery and Reinvestment Act Project also known as the Iowa LUST ARRA Project. Services that will be required are to develop site

specific plans for LUST cleanup activities at sites selected by and assigned to the contractor by the Iowa Department of Natural Resources (DNR) and then implementing the planned activities, which may include permanent tank/piping closure, Tier 1 and Tier 2 reports, DNR approved soil excavation, longer-term remediation design and implementation, high risk receptor removal and replacement and other LUST cleanup related activities as described in the Scope of Work. An emphasis will be placed on performing LUST cleanup activities which can be implemented quickly.

Section 3 DURATION OF CONTRACT

3.1 Term of Contract. The term of this Contract shall be **(Contract Start Date)** through **(Contract Expiration Date)** unless terminated earlier in accordance with the Termination section of this Contract.

3.2 Approval of Contract. If the amount of compensation to be paid by DNR according to the terms of this Contract is equal to or greater than \$25,000.00 (twenty five thousand dollars), then performance shall not commence unless by **(Contract Start Date)** this Contract has been approved by the Environmental Protection Commission and has been signed by both parties.

3.3 Renewal. DNR shall have the sole option to renew and extend this Contract for subsequent periods, adding up to no more than 6 years total, by executing a signed contract prior to the expiration of this Contract.

Section 4 DEFINITIONS

“Contractor” means (name of contractor) or any duly authorized representative thereof.

“Deliverables” shall mean services to be provided by, or on behalf of, the Contractor pursuant to this Contract. Deliverables shall include the tasks set out in this Contract and everything produced by the Contractor that is related to the tasks, such as reports, meetings, documentation, designs, copy, artwork, data, information, graphics, images, processes, techniques, materials, plans, papers, forms, studies, modifications, content, concepts, and all other tangible and intangible works, materials and property of every kind and nature that are related to the deliverables.

“DNR” means the Iowa Department of Natural Resources or any duly authorized representative thereof.

“Task Milestone Date” shall mean any of the dates contained in the Contract stating the deadline for accomplishing tasks required by this Contract.

Section 5 STATEMENT OF WORK

5.1 Statement of Work. Contractor shall perform the following tasks. Contractor shall complete its obligations under this Contract by the Task Milestone Dates set out in the following table.

Obligation	Task Milestone Date
Task 1: Develop Site Specific Plans for LUST Cleanup Activities/Site Safety Description: Prepare site specific plans for LUST cleanup activities at sites selected by and assigned to the vendors by the DNR. These site specific plans may include permanent tank/piping closure activities, Tier 1 and Tier 2 assessment reports, soil excavation, free	No later than Task Due Date

<p>product removal, longer term remediation, receptor removal or replacement and other site cleanup related activities. Suggested records to review in preparation of the site specific LUST cleanup activity plans are DNR tank records, state and local fire marshal records, Sanborn maps, air photos, city directories and other historical records.</p> <p>The vendor firm shall be responsible for obtaining separate site access agreements from each property owner where the LUST cleanup activities will be performed. These agreements must be in place before intrusive site activities are initiated.</p> <p>The vendor firm shall be responsible for maintaining a safe job site with operational employees thoroughly knowledgeable and properly trained in hazards associated with the removal of USTs and other intrusive site cleanup activities including, but not limited to, excavation, drilling, sampling, free product removal, and remediation system installation, operation, and maintenance. At a minimum this would include:</p> <ul style="list-style-type: none"> • Obtain site access from property owner. • Compliance with OSHA Health and Safety Standards - 29 CFR 1926/1910. • Compliance with federal and state regulations governing the proper storage, removal, transportation, and disposal of hazardous materials (liquids/sludges). • Compliance with state regulations which make it obligatory to report the release of petroleum products or hazardous materials. • Develop site safety plan and make it available for review by operational employees. • Instructions on methods to detect hazardous materials: atmospheric testing/sampling procedures. • Health hazards associated with exposure to hazardous materials. • Instruction for hazardous materials handling. • Personal protective gear. • Respirator training/respiratory protection. • Emergency response procedures • First Aid/CPR • Electrical hazards • Iowa One Call utility notification procedures and requirements • 	
<p>Task 2: Quality Assurance Project Plans</p> <p>Description: The vendor firm shall develop a quality assurance project plan that documents the type and</p>	<p>No later than Task Due Date</p>

<p>quality of the data needed for environmental decisions and describe the methods for collecting and assessing those data. The quality assurance project plan must be available for review by DNR upon request. Guidance for preparation and plan requirements may be found:</p> <p>EPA Guidance for Quality Assurance Plans--- http://www.epa.gov/swerust1/cat/epaqag5.pdf</p> <p>EPA Requirements for Quality Assurance Project Plans-- http://www.epa.gov/quality/qs-docs/r5-final.pdf</p>	
<p>Task 3: UST Closure</p> <p>Description: These activities will be completed only when directed by DNR and costs are pre-approved by the DNR.</p> <p><u>Tank/Piping Removal</u> Complete the permanent closure of regulated USTS in compliance with DNR rules and guidance. (See DNR document "Guidance Document - Underground Storage Tank Closure Procedures for Tank & Piping Removal". To obtain a copy of this document from the internet, use the following internet address: http://www.iowadnr.gov/land/ust/technicalresources/registerclose/tanks/documents/ustclsrpt.pdf)</p> <ul style="list-style-type: none"> • Notify DNR 14 days prior to closure activities beginning. Provide notification of intended UST closure activity by submitting DNR Form 542-1308 "Notification of Closure/Change-in-Service" to the DNR at least 10 days before closure activities begin. Secure local permits and notify local fire prevention departments. Conduct initial site work. • Provide oral confirmation of closure date to the DNR field office 24 hours prior to actual closure to confirm the removal date. • Perform UST closure activities including proper removal and disposal of liquids and residues from the UST system; disconnect and remove all tank and piping fixtures; purge, clean, remove and dispose of the UST and piping; conduct organic vapor analysis and soil and groundwater sampling (Sampling activity must be supervised by a certified groundwater professional.); ship samples to an Iowa certified laboratory within 72 hours of collection and instruct the laboratory to analyze for chemicals of concern as specified in Chapter 135, IAC and also the following oxygenates: MTBE, ethylene dibromide (EDB), and 1, 2- 	<p>No later than Task Due Date</p>

dichloroethane (1, 2-DCA); notify DNR if contamination is found; backfill and compact tank pit with inert clay/sand mixture, sand/bentonite mixture, or comparable materials which will allow adequate compaction of reduced settlement (sand alone is not allowable); plug all temporary monitoring wells; restoration of surface (Contract will not cover the replacement of concrete or asphalt. Class A road stone may be used to resurface.).

- Submit a copy of the closure confirmation report within 45 days of the tank and/or piping removal.

Tank/Piping Filling in Place (See DNR document "Guidance Document - Underground Storage Tank Closure Procedures for Filling in Place". To obtain a copy of this document from the internet, use the following internet address:

<http://www.iowadnr.gov/land/ust/technicalresources/registerclosureetanks/documents/ustclsfill.pdf>

- UST systems must be physically impossible to remove or impair major structures before the department approves "filling in place" activities. Piping should be removed if possible or completely filled with mortar or concrete.
- Notify DNR 14 days prior to closure activities beginning. Provide notification of intended UST closure activity by submitting DNR Form 542-1308, "Notification of Closure/Change in Services," before closure activities begin. Secure local permits and notify fire prevention departments.
- Provide oral confirmation of closure activities to the DNR field office 24 hours prior to actual sampling or filling in place procedures.
- Properly remove and dispose of liquids and residues from the UST system; disconnect and remove all tank and piping fixtures; purge and clean the UST; conduct sampling activity of soil and groundwater (Sampling activity must be supervised by a certified groundwater professional.); ship samples to an Iowa certified laboratory within 72 hours of collection and instruct the laboratory to analyze for chemicals of concern as specified in Chapter 135, IAC and also the following oxygenates: MTBE, ethylene dibromide (EDB), and 1, 2-dichloroethane

<p>(1, 2-DCA); notify DNR if contamination is found; if approved by department, fill tank with inert material; plug all temporary monitoring wells; restoration of surface (contract will not cover the replacement of concrete or asphalt. Class A stone may be used to resurface.).</p> <ul style="list-style-type: none"> • Submit closure report within 45 days of filling in place. 	
<p>Task 4: Tier 1 Site Assessment</p> <p>Description: Complete a Tier 1 site assessment and submit a report in accordance with DNR rules and guidance. Lab analysis shall include chemicals of concern as specified in Chapter 135, IAC and also the following oxygenates: MTBE, ethylene dibromide (EDB), and 1, 2-dichloroethane (1, 2-DCA). These activities will be completed only when directed by DNR and costs are pre-approved by the DNR. (See DNR document "Tier 1 Guidance - Site Assessment of Leaking Underground Storage Tanks (LUST) Using Risk-Based Corrective Action (RBCA)". Copies of the Tier 1 Guidance can be obtained by telephoning 515-281-6010.</p>	<p>No later than Task Due Date</p>
<p>Task 5: Tier 2 Site Assessment</p> <p>Description: Complete Tier 2 site assessment and submit a report to the DNR in accordance with Chapter 567--135.10(455B) and Tier 2 site assessment guidance. Lab analysis shall include chemicals of concern as specified in Chapter 135, IAC and also the following oxygenates: MTBE, ethylene dibromide (EDB), and 1, 2-dichloroethane (1, 2-DCA). These activities will be completed only when directed by DNR and costs are pre-approved by the DNR. (See DNR document "Tier 2 Site Cleanup Report Guidance".) Copies of the Tier 2 Guidance can be obtained by telephoning 515-281-6010.</p>	<p>No later than Task Due Date</p>
<p>Task 6: Corrective Action</p> <p>Description: Design and implementation of soil and groundwater remediation systems as provided in 567 IAC 135.12 will be completed only when directed by DNR and costs are pre-approved by the DNR. Lab analysis shall include chemicals of concern as specified in Chapter 135, IAC and also the following oxygenates: MTBE, ethylene dibromide (EDB), and 1, 2-dichloroethane (1, 2-DCA). These activities may be completed under a separate contract when applicable. The corrective action may include but is not limited to the following activities:</p> <p><u>Soil excavation activities:</u></p>	<p>No later than Task Due Date</p>

<p>* Complete DNR approved soil excavation Chapter 567--135.12.</p> <p><u>Corrective Action Design Report</u></p> <p>* Prepare a Corrective Action Design Report and submit the report to the DNR in accordance with Chapter 567--135.12(455B). Copies of the CADR Guidance can be obtained by telephoning 515-281-6010.</p> <p><u>Free Product Recovery</u></p> <p>* Conduct free product recovery and reporting activities when appropriate in accordance with Chapter 567--135.7(5)</p> <p>* Initiate free product removal, assess the extent of product present, and submit a Free Product Recovery Assessment Report.</p> <p>Receptor Removal and Replacement</p> <ul style="list-style-type: none"> Removal of plastic water lines and replacement with iron in accordance with DNR rules and guidance. <p>Removal, plugging and replacement of private drinking and non-drinking water wells and public water wells in accordance with DNR rules and guidance. See private well rules in chapters 567 IAC 38, 39 & 49 as well as public water well rules in 567 IAC 43.3(7).</p>	
<p>Task 7: Site Monitoring</p> <p>Description: These activities will be completed only when directed by DNR and costs are pre-approved by the DNR.</p> <p>* Complete site monitoring activities when appropriate in accordance with Chapter 567--135.8.</p> <p>* Conduct sample analyses and submit a Site Monitoring Report. Lab analysis shall include chemicals of concern as specified in Chapter 135, IAC and also the following oxygenates: MTBE, ethylene dibromide (EDB), and 1, 2-dichloroethane (1, 2-DCA).</p>	<p>No later than Task Due Date</p>
<p>Task 8: Schedules</p> <p>Description: Upon submittal of the signed contract, the contractor shall provide DNR with a schedule of events which includes the dates the expected events are to occur during the course of the project.</p>	<p>No later than Task Due Date</p>

<p>Time extensions must receive prior approval from the DNR. Good faith efforts will be considered when granting extensions. Adherence to scheduled start-up duties for individual tasks and early detection of potential delays will be considered when determining good faith efforts. Should the DNR determine good faith efforts were not used, liquidated damages of \$250 for each day after 180 days to complete all closures shall be imposed. The liquidated damages approximate the reasonable amount of damages to the Iowa LUST ARRA Project anticipated by the DNR for delays in not completing the required work on time.</p>	
<p>Task 9: Status Reports</p> <p>Description: Pursuant to Section 1512 of the ARRA, state agencies receiving ARRA funds must submit a report to the federal government no later than ten (10) calendar days after the end of each calendar quarter ("Reporting Period"). Accordingly, the Contractor is required to complete projects or activities which are funded under ARRA and to report on use of Recovery Act Funds provided through this contract. Information from these reports will be made available to the public.</p> <p>The Contractor will be required to submit status reports to DNR on the first day of each month during the contract. The reports shall include information regarding each specific site included in the Iowa LUST ARRA Project for which they have been selected, the status and budgets of work completed or pending. Reports shall include the following elements:</p> <p>a. The total amount of ARRA funds received by Contractor during the Reporting Period;</p> <p>b. The amount of ARRA funds that were expended or obligated-during the Reporting Period;</p> <p>c. A detailed list of all projects or activities for which ARRA funds were expended or obligated, including:</p> <ul style="list-style-type: none"> • the name of the project or activity; • a description of the project or activity; • an evaluation of the completion status of the project or activity; and • an estimate of the number of jobs created and the number of jobs retained by the project or activity; <p>d. For any subcontracts or sub grants equal to or greater than \$25,000:</p> <ul style="list-style-type: none"> • The name of the entity receiving the sub award; • The amount of the sub award; • The transaction type; • The North American Industry Classification 	<p>No later than The first day of each month for the duration of the contract.</p>

<ul style="list-style-type: none"> • System (NAICS) code or • Catalog of Federal Domestic Assistance (CFDA) number; • Program source; • An award title descriptive of the purpose of each funding action; • The location of the entity receiving the sub award; • The primary location of the sub award, including the city, state, congressional district and country; and • A unique identifier of the entity receiving the sub-award and the parent entity of the vendor , should the entity be owned by another. <p>e. For any subcontracts or sub grants of less than \$25,000 or to individuals, the information required in section d (above) of the Reporting Requirements may be reported in the aggregate and requires the certification of an authorized officer of the vendor that the information contained in the report is accurate.</p> <p>f. Any other information reasonably requested by the State of Iowa or required by state or federal law or regulation.</p> <p>Standard data elements and federal instructions for use in complying with reporting requirements under Section 1512 of the ARRA were published in the Federal Register on April 1, 2009 [74 FR 14824], and once approved will be provided online at www.FederalReporting.gov.</p> <p>Contractor must also maintain current registrations in the Central Contractor Registration www.ccr.gov at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration. The contractor shall comply with all requirements regarding current registration in the Central Contractor Registration and obtaining a Dun and Bradstreet Data Universal Numbering System (DUNS) number and reporting requirements.</p>	
--	--

5.2 Final Notice of Acceptance. If DNR concludes, in its sole discretion, that all the Tasks required by the Statement of Work have been timely completed and all deliverables and services required by this Contract have been satisfactorily completed and delivered, and that the implementation of the Statement of Work is completed and successfully deployed, then DNR shall issue a written Final Notice of Acceptance.

5.3 Non-Exclusive Rights. This Contract is not exclusive. DNR reserves the right to select other contractors to provide services similar or identical to the Scope of Services described in this Contract during the term of this Contract.

5.4 Stop Services. In addition to its other remedies described herein, DNR shall have the right at any time during the Contract term to direct the services of Contractor fully or partially suspended or stopped, if the deliverables or services fail to conform to applicable specifications and requirements in this Contract. DNR shall give Contractor written notice of a stop work directive. DNR shall provide to Contractor the reasons for the stop work directive.

5.5 Industry Standards. Services rendered pursuant to this Contract shall be performed in a professional and workmanlike manner in accordance with the terms of this Contract and the standards of performance considered generally acceptable in the relevant industry for similar tasks and projects. In the absence of a detailed specification for the performance of any portion of this Contract, the parties agree that the applicable specification shall be the generally accepted industry standard.

5.6 Amendments to Statement of Work – Change Order Procedure. Modifications, deletions and additions may be made to a Statement of Work at any time during the term of this Contract by mutual written consent of the parties. Any amendment to a Statement of Work shall be called a Change Order, and the following procedures shall be followed:

5.6.1 Written Request. DNR shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Services.

5.6.2 The Contractor's Response. The Contractor shall submit to DNR a time and cost estimate for the requested Change Order within five (5) business days of receiving the Change Order Request.

5.6.3 Acceptance of the Contractor Estimate. If DNR accepts the estimate presented by the Contractor within five (5) business days of receiving the Contractor's response, the Contractor shall perform the modified services subject to the time and cost estimates included in the Contractor response. The Contractor's performance and the modified services shall be governed by the terms and conditions of this Contract.

5.6.4 Adjustment to Compensation. The parties acknowledge that a Change Order for this Contract may or may not entitle the Contractor to an equitable adjustment in the Contractor's compensation or the performance deadlines under this Contract and that such Change Order may require approval of the Natural Resources or Environmental Protection Commission.

5.7 Incorporation of Documents. The following documents, and any amendments thereto existing on the date this Contract is signed by DNR, are incorporated into this Contract by this reference: (1) the Request for Proposal issued on *(RFP issue date)* and written responses to bidders' question (collectively referred to as the RFP), attached as Exhibit B; (2) the Contractor's Technical Proposal of *(Contractor submittal date)* submitted in response to the RFP, attached as Exhibit A; (3) the Contractor's Cost Proposal of *(Contractor submittal date)* submitted in response to the RFP, attached as Exhibit C; and (4) the Contractor's Job Proposal of *(Contractor submittal date)* submitted in response to the RFP, attached as Exhibit D.

5.8 Preference. In the case of any inconsistency or conflict between the provisions of this document (including all related schedules and Statements of Work), the RFP or the Contractor's Proposal, the inconsistency or conflict shall be resolved as follows: first, by giving preference to the provisions of this document (including any Statements of Work); second, by giving preference to the provisions of the Proposal; and third, by giving preference to the provisions of the RFP.

5.9 Subcontracts. The Contractor shall submit to DNR a copy of each subcontract which it enters into with subcontractors. The Contractor shall submit this copy to the contract officer within seven days of the date on which the Contractor enters into the subcontract with the subcontractor.

Any subcontractors and outside associates or consultants required by the Contractor in connection with the services covered by this contract will be limited to such individuals or firms as were specifically identified and agreed to during negotiations, or as specifically authorized by DNR during the performance of this contract. Any substitutions in or additions to such subcontractors, associates, or consultants will be subject to the prior approval of DNR.

Section 6 MONITORING AND REVIEW

6.1 Task Milestone Dates. Contractor shall complete its obligations under this Contract by the Task Milestone Dates set out in Section 5.1.

Failure by Contractor to complete the above-designated portions of its obligations by the Task Milestone Dates set out herein shall constitute material breach of this Contract by Contractor and shall be grounds for DNR to immediately terminate this Contract for cause.

6.2 Review Meetings. Commencing with beginning performance of this Contract, the Project Managers shall meet monthly to discuss progress made by the Contractor during the performance of this Contract. The meetings shall occur, either in person or by telephone conference call, at the following times: the second Tuesday of every month at 1:00 pm. Meetings may be postponed only on a case-by-case basis by mutual written agreement of the parties.

6.3 Status Reports. Prior to each review meeting, the Contractor Project Manager shall provide a status report listing:

- Accomplishments during the previous period,
- Activities planned for the upcoming period,
- Tasks completed or deliverables produced during the previous period,
- An updated schedule of upcoming deliverables,
- Any problems or concerns encountered since the last meeting, and
- An explanation of any deviations from the financial and hourly expenditures contained in the Contractor's proposal of **(Contractor RFP Submittal Date)**, attached hereto as Exhibit A.

At the next scheduled meeting after which any party has identified in writing a problem, the party responsible for resolving the problem shall provide a report setting forth activities undertaken, or to be undertaken, to resolve the problem, together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that shall facilitate problem resolution.

6.4 DNR right to review and observe. DNR shall have the right to review and observe, at any time, completed work or work in progress. Contractor shall allow the State of Iowa or DNR, to inspect its facilities and books and records relating to invoicing and time records for the purpose of monitoring and evaluating performance of this Contract.

Section 7 COMPENSATION

7.1 Source of Funding. The source of funding for this Contract is The American Recovery and Reinvestment Act of 2009 (P.L. 111-5) and the Leaking Underground Storage Tank Trust Fund Program.

7.2 Not-to-exceed total amount of Contract. Payment for the work performed by Contractor according to the terms of this Contract shall not exceed **\$625,000**. Payment shall be for satisfactory completion of the Statement of Work outlined in this Contract, provided that Contractor has complied with the terms of this Contract.

7.3 Retained Amount. DNR shall retain ten percent (10%) of the compensation associated with this Contract to secure the Contractor's performance under this Contract. The Retained Amount shall be payable only upon DNR's issuance of a written Final Notice of Acceptance.

7.4 Right of Entry and Indemnity Agreement. The Contractor shall be responsible for contacting the property owner and obtaining the property owner's signature on The Right of Entry and Indemnity Agreement before the Contractor shall have access to the site property. The Right of Entry and Indemnity Agreement appears in Attachment 1.

7.5 Final Notice Acceptance of Implementation of Statements of Work. If DNR concludes, in its sole discretion, that all the Tasks required by the Statement of Work have been timely completed and all deliverables and services required by this Contract have been satisfactorily completed and delivered, and that the implementation of the Statement of Work is completed and successfully deployed, then DNR shall issue a written Final Notice of Acceptance.

7.6 Budget. The budget for this Contract shall be determined on the following schedule of Contract Unit Prices and Contract Summary which is based on the Cost Proposal prepared for this Contract by the Contractor dated _____ and attached as Exhibit C.

Assumptions:

(1) The Contract Unit Prices are established based on the Cost Proposal prepared by the Contractor, dated _____.

(2) It is the intent that the Contract Unit Prices will serve as the basis for progress payments.

(3) Change orders for work items not anticipated in the Schedule of Contract Unit Prices shall be negotiated in advance in accordance with applicable unit prices established in the Contractor's Cost Proposal for project dated _____.

(4) The Work Proposal and proposed cost for each task should be submitted to the DNR Project Manager prior to beginning any of those activities, on a site-specific basis. Only those activities and costs pre-approved will be reimbursed upon proper completion of the activities.

7.7 Work Proposals. Following DNR assignment of a site project to the Contractor and prior to initiating any service work at the project site, the Contractor shall submit a Work Proposal for approval by the DNR Project Manager. The Work Proposal shall describe all proposed work tasks and all associated itemized costs based on the approved itemized costs for tasks in the 7.6 Budget. Work Proposals shall be submitted for each phase of the site project.

If Contractor believes that Davis Bacon wage rates apply, the Contractor should indicate this on the Work Proposal submitted to DNR. If DNR determines that Davis Bacon wages apply to the work task, DNR will indicate the appropriate Davis-Bacon wage rate on the Work Proposal and return the Work Proposal to the Contractor. The Contractor shall revise the Work Proposal using the appropriate DB wage rates and resubmit the Work Proposal to DNR. The Contractor must

include a provision in any subcontract requiring the subcontractor to follow the Davis Bacon wage determination incorporated in the Work Proposal.

The Contractor shall not begin work until the DNR Project Manager has approved the Work Proposal. Work Proposal format is contained in Attachment 2.

7.8 Submission of Invoices. The Contractor shall submit invoices for payment based upon each work proposal. The Contractor shall submit, on a monthly basis, invoice(s) for services rendered in accordance with this Contract. Each invoice shall itemize the work performed pursuant to the Contract and shall be based upon each DNR pre-approved work proposal. Each invoice shall comply with all applicable rules concerning payment of such claims and shall contain appropriate documentation necessary to support the fees or charges included in the invoice. DNR shall have the right to dispute any invoice item submitted for payment and to withhold payment of any disputed amount if DNR reasonably believes the invoice is inaccurate or incorrect in any way. Original invoices shall be submitted to:

Iowa Department of Natural Resources
Attention: *(DNR Project Manager Name)*
Wallace State Office Building
502 East Ninth Street
Des Moines, IA 50319

7.9 Payment of Invoices. DNR shall pay approved invoices in arrears and in conformance with Iowa Code section 8A.514. Unless otherwise agreed to in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State of Iowa for any services provided by or on behalf of the Contractor under this Contract. Payment will be issued to:

(Contractor Project Manager Name and Address)

7.10 No advance payment. No advance payments shall be made for any Deliverables provided by Contractor pursuant to this Contract.

7.11 Delay of Payment Due to Contractor's Failure. If DNR determines that the Contractor has failed to perform or deliver any service or product required by this Contract, then the Contractor shall not be entitled to any compensation, or any further compensation if compensation has already occurred, under this Contract until such service or product is performed or delivered. DNR shall withhold that portion of the invoice amount which represents payment for the task or deliverable that was not completed, delivered and successfully deployed.

7.12 Erroneous Payments and Credits. Contractor shall promptly re-pay or refund to DNR the full amount of any overpayment or erroneous payment within ten (10) business days after either discovery by Contractor or notification by DNR of the overpayment or erroneous payment.

7.13 Set-off Against Sums Owed by Contractor. In the event that Contractor owes DNR or the State of Iowa ("State") any sum (including any State taxes in arrears) under the terms of this Contract, any other Contract, pursuant to a judgment, or pursuant to any law, DNR may set off such sum against any sum invoiced to DNR by Contractor. This may be done in DNR's sole discretion unless otherwise required by law.

7.14 Reimbursable Expenses. There shall be no reimbursable expenses associated with this Contract separate from the compensation referred to in this section, unless agreed to by both parties in an amendment to this Contract or in a Change Order executed by both parties. Unless otherwise specifically provided for in this Contract, Contractor shall be solely responsible for all its costs and expenses, including travel, mileage, meals, lodging, equipment, supplies, personnel, training, salaries, benefits, insurance, conferences, long distance telephone, and all other costs and expenses of the Contractor.

7.15 Stop Services. In addition to its other remedies described herein, DNR shall have the right at any time during the Contract term to direct the services of the Contractor fully or partially suspended or stopped, if the deliverables or services fail to conform to applicable specifications and requirements under this Contract. DNR shall give Contractor the reasons for the stop work directive.

7.16 Final Payment. Before final payment or a termination settlement under this Contract, the Contractor shall execute and deliver to DNR a release of all claims against DNR arising under, or by virtue of, this Contract except claims which are specifically exempted by the Contractor. Unless otherwise provided in this Contract, by state law or otherwise expressly agreed to by the parties to the Contract, final payment under a settlement upon termination of this Contract shall not constitute a waiver of DNR's claims against the Contractor, or the Contractor's sureties under this Contract or applicable performance and payment bonds.

Attachment A

Standard Terms and Conditions for Federally-funded Contracts Using ARRA Funds

To the extent that this contract or grant involves the use, in whole or in part, of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 (ARRA) funds, the following terms and conditions shall apply. As used in this Section, "Contractor" means the contractor or grantee receiving ARRA funds from the State of Iowa under this contract.

1. The Contractor specifically agrees to comply with each of the terms and conditions contained herein. Contractor understands and acknowledges that the federal stimulus process is still evolving and that new requirements for ARRA compliance may be added. Accordingly, Contractor specifically agrees that both it and subcontractors/sub-grantees will comply with all such requirements during the contract period.
2. Contractor agrees that it shall include these standard terms and conditions in all subcontracts or sub-grants it may enter into in connection with projects funded in whole or in part with funds available under the ARRA.
3. Contractor understands that ARRA funds are temporary and that programs supported with ARRA funds will not be continued with state financed appropriations once the temporary ARRA funds are expended.

A.1 Conflicting Requirements

Contractor agrees that, to the extent ARRA requirements conflict with the State of Iowa requirements, the ARRA requirements shall control.

A.2 Whistleblower Protection

Contractor agrees that both it and its subcontractors/sub-grantees shall comply with Section 1553 of the ARRA, which prohibits all non-federal Vendor/Grantees of ARRA funds, including the State of Iowa, and all contractors and grantees of the State of Iowa, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant awarded or issued relating to ARRA funds. Contractor agrees that it and its subcontractors/sub-grantees shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

A.3 Non Discrimination

The Contractor shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and other civil rights laws applicable to recipients of Federal financial assistance.

A.4 Job Posting Requirements

Section 1512 of the ARRA requires states receiving stimulus funds to report on jobs created and retained as a result of the stimulus funds. Contractors who receive ARRA funded contracts are strongly encouraged to post job opportunities created in connection with projects funded in whole or in part with ARRA funds on the State of Iowa job opportunity site, <http://www.iowajobs.org>

A.5 Inspector General Reviews

In addition to the access to records provisions of 2 CFR 215.53 or 40 CFR 31.42, and in accordance with the provisions of section 1515 of the American Recovery and Reinvestment Act

of 2009, Contractor agrees to allow any appropriate representative of the Office of Inspector General to (1) examine any records of the Contractor, any of its procurement subcontractors and interview any officer or employee of the Contractor or its subcontractor.

The Contractor is advised that providing false, fictitious or misleading information with respect to the receipt and disbursement of any federal funds may result in criminal, civil or administrative fines and/or Contractor shall be aware that the findings of any review, along with any audits, conducted by an inspector general of a Federal department or executive agency and concerning funds awarded under ARRA shall be posted on the inspector general's website and linked to www.recovery.gov, except that information that is protected by disclosure under sections of 552 and 552a of title 5, United States Code may be redacted from the posted version.

A.6 Prohibition on Use of ARRA Funds

Contractor agrees that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pools, or similar projects.

A.7 Segregation of Funds

Contractor agrees that it shall segregate obligations and expenditures of ARRA funds from other funding. No part of funds made available under the ARRA may be commingled with any other funds or used for a purpose other than that of making payments for costs allowable under the ARRA.

A.8 False Claims Act

Contractor agrees that it shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, sub-grantee, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds provided under this contract.

A.9 Enforceability

Contractor agrees that if Contractor or one of its subcontractors/sub-grantees fails to comply with all applicable federal and state requirements governing the use of ARRA funds, the State of Iowa may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the State of Iowa under all applicable state and federal laws.

Attachment B

LUST Trust Fund Program Specific Terms and Conditions for Federally-funded Contracts Using ARRA Funds

B.1 Preference for Quick-Start Activities

Contractor shall use funds in a manner that maximizes job creation and economic benefit. When using funds for infrastructure investment, the Contractor must give preference to funding activities that can be started and completed expeditiously.

B.2 Buy American

This term and condition shall apply only when the Contractor uses American Recovery and Reinvestment Act funds to: install piping to connect households or businesses to public water systems or replace public water system supply well(s) and associated piping due to groundwater contamination, or for construction related activities associated with site restoration, including paving or concrete replacement. However, if the Contractor encounters a unique situation at a site that presents uncertainties regarding Buy American applicability, the Contractor must discuss the situation with DNR's project officer before proceeding with work on the site. DNR will then discuss the situation with the EPA project officer before authorizing work on the site.

Required Use of American Iron, Steel, and Manufactured Goods – Section 1605 of the American Recovery and Reinvestment Act of 2009

(a) **Definitions.** As used in this contract term and condition—

"Manufactured good" means a good brought to the construction site for incorporation into the building or work that has been--

(1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

"Public building" and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

"Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Domestic preference.*

(1) This contract term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act)(Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this term and condition.

(2) This requirement does not apply to the material listed by the Federal Government. All "Buy American Waivers" are published in the Federal Register and published at <http://www.epa.gov/recovery/>.

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this term and condition if the Federal government determines that—

(i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of Section 1605 of the Recovery Act.*

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this term and condition shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this term and condition.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) **Data.** To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON			
Description	Unit of Measure	Quantity	Cost (Dollars)*
Item 1:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
Item 2:			
Foreign steel, iron, or manufactured good	_____	_____	_____

Domestic steel, iron, or manufactured good	_____	_____	_____
[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.] [Include other applicable supporting information.] [* Include all delivery costs to the construction site.]			

B.3 Transparency and Accountability – Single Audit Information for Recipients of Recovery Act Funds

Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Sub-recipients

- (a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)(Recovery Act) as required by Congress and in accordance with 2 CFR 215, subpart C. 21 “Uniform Administrative Requirements for Grants and Agreements” and OMB A-102 Common Rules provisions, Contractor agrees to maintain records that identify adequately the source and application of Recovery Act funds.
- (b) DNR agrees to separately identify to the Contractor, and document at the time of contract award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. The Federal award number for this contract is 2L-97706401, the CFDA number is 66.805, and the amount of Recovery Act funds is not to exceed \$625,000.
- (c) The Contractor is required to include on any of its subcontracts resulting from this contract, the same Federal award number, CFDA number as identified in this contract and the amount of Recovery Act funds awarded in the subcontract. This information is needed to allow the DNR to properly monitor Contractor expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

B.4 Payment to Consultants

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by DNR or by a DNR's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2009, the limit is \$587.20 per day and \$73.40 per hour. This rate does not include transportation and subsistence costs for travel performed (the DNR will pay these in accordance with their normal travel reimbursement practices).

Subcontracts with firms for services which are awarded using the procurement requirements in 40 CFR 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the DNR with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 31.36(j) or 30.27 (b).

B.5 OMB Guidance

This contract is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on www.recovery.gov, and any subsequent guidance documents issued by OMB.

B.6 Management Fees

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this contract. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

B.7 Wage Rate Requirements under Section 1606 of the American Recovery and Reinvestment Act of 2009

Preamble

Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor (DOL) has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

DAVIS BACON PREVAILING WAGE TERM AND CONDITION

The following terms and conditions specify how DNR will assist EPA in meeting its Davis Bacon (DB) responsibilities and the contractor's role when DB applies to EPA awards of financial assistance under ARRA or any other statute which makes DB applicable. If the Contractor has questions regarding when DB applies, obtaining the correct DB wage determinations, DB contract provisions, or DB compliance monitoring, it shall contact the DNR Project Manager for assistance. The DNR Project Manager may contact EPA for guidance. The DNR may also obtain additional guidance from DOL's web site at <http://www.dol.gov/esa/whd/recovery/>

The DNR may obtain Iowa DB wage rates at : <http://www.gpo.gov/davisbacon/ia.html>
DNR may also contact Lori Beary, Iowa Finance Authority (lori.beary@iowa.gov or 515-725-4965) to obtain DB wage determinations.

1. Applicability of the Davis Bacon prevailing wage requirements

After consultation with DOL, EPA has determined that for LUST Recovery Act assistance agreements, DB prevailing wage requirement applies when the LUST project includes:

(a) Installing piping to connect households or businesses to public water systems or replacing public water system supply well(s) and associated piping due to groundwater contamination,

(b) Soil excavation/replacement when undertaken in conjunction with the installation of public water lines/wells described above,or

(c) Soil excavation/replacement, tank removal, and restoring the area by paving or pouring concrete when the soil excavation/replacement occurs in conjunction with both tank removal and paving or concrete replacement.

In the above circumstances, all the laborers and mechanics employed by the Contractor and its subcontractors will be covered by the DB requirements for all construction work performed on the site. Other LUST funded activities, such as site assessments, in situ remediation, and soil excavation/replacement and tank removal when not in conjunction with paving or concrete replacement, will normally not trigger DB requirements. However, if a Contractor encounters a unique situation at a site (e.g. unusually extensive excavation) that presents uncertainties regarding DBA applicability, the Contractor must discuss the situation with the DNR Project Manager before proceeding with work on the site. The DNR Project Manager will discuss the situation with EPA before authorizing the Contractor to proceed with work at the project site.

2. Obtaining Wage Determinations

(a) Unless otherwise instructed by EPA on a project specific basis, the DNR shall use the following DOL General Wage Classifications for the locality in which the construction activity subject to DB will take place. DNR must obtain wage determinations for specific localities at www.wdol.gov or <http://www.gpo.gov/davisbacon/ia.html> DNR may also contact Lori Beary, Iowa Finance Authority (lori.beary@iowa.gov or 515-725-4965) to obtain wage determinations.

(i) When issuing and approving work proposals to the Contractor for installing piping to connect households or businesses to public water systems or replacing public water system supply well(s) and associated piping, including soil excavation/replacement, DNR shall use the "Heavy Construction" Classification.

(ii) When issuing and approving work proposals to the Contractor for soil excavation/replacement, tank removal, and restoring the area by paving or pouring concrete when the soil excavation/replacement occurs in conjunction with both tank removal and paving or concrete replacement at current or former service station sites, hospitals, fire stations, industrial or freight terminal facilities, or other sites that are associated with a facility that is not used solely for the underground storage of fuel or other contaminant, DNR shall use the "Building Construction" classification.

(iii) When issuing and approving work proposals to the Contractor for soil excavation/replacement, tank removal, and restoring the area by paving or pouring concrete when the soil excavation/replacement occurs in conjunction with both tank removal and paving or concrete replacement at a facility that is used solely for the underground storage of fuel or other contaminant, DNR shall use the "Heavy Construction" classification.

DNR must discuss unique situations that may not be covered by the General Wage Classifications described above with EPA. If, based on discussions with DNR, EPA determines that DB applies to a unique situation (e.g. unusually extensive excavation) the EPA will advise DNR which General Wage Classification to use based on the nature of the construction activity at the site and DNR will inform the Contractor.

In all situations in which DNR determines appropriate DB wages, Contractor shall include a provision in any subcontract requiring the subcontractor to follow the DB wage determination incorporated in the Work Proposal.

(b) DNR shall review all subcontracts subject to DB wages entered into by the Contractor to verify that the Contractor has required its subcontractors to include the applicable wage determinations.

(c) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to this contract after the issuance and approval of a Work Proposal. If DOL determines that DNR has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the Work Proposal, the DNR shall either terminate the Work Proposal and issue a revised Work Proposal or incorporate DOL's wage determination retroactive to the beginning of the Work Proposal. Contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract Provisions

(a) The following labor standards provisions apply to this contract and any resulting subcontracts in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to Davis-Bacon.

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the applicable wage determination of the Secretary of Labor which the DNR obtained under the procedures specified in Item 2, above, and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. The DNR shall require that the contractor and subcontractors include the name of the DNR employee or official responsible for monitoring compliance with DB on the poster.

(ii)(A) The DNR, on behalf of EPA, shall require that contracts and subcontracts entered into under this agreement provide that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The EPA Award Official shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and DNR agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by DNR to the EPA Award Official. The Award Official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the award official or will notify the award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the DNR do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the questions, including the views of all interested parties and the recommendation of the award official, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the DNR and will notify the Award Official within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The DNR, upon written request of the Award Official or an authorized representative of the Department of Labor, shall withhold or cause to withhold from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, EPA may, after written notice to the contractor, or DNR take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the DNR who will maintain the records on behalf of EPA. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the DNR for transmission to the EPA, if requested by EPA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the Recipient.

(B) Each payroll submitted to the DNR shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR Part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR Part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, EPA may, after written notice to the contractor, DNR, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this term and condition.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors), the Recipient, borrower or subgrantee and EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be

awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provisions for Contracts in Excess of \$100,000

(a) Contract Work Hours and Safety Standards Act. This contract is in excess of \$100,00 and, thus, is subject to the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses are in addition to the clauses in Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The DNR, upon written request of the Award Official or an authorized representative of the Department of Labor, shall withhold or cause to withhold from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of

hours worked, deductions made, and actual wages paid. Further, the Recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a). The DNR shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The DNR must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The DNR shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the Recipient must conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. Recipients must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. Recipients shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c). The DNR shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The Recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the Recipient must spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the Recipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d). The DNR shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) DNR must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/esa/contacts/whd/america2.htm>

B.8 Project Sign Under the American Recovery and Reinvestment Act of 2009

All projects which are funded by the ARRA should display signage in a manner that informs the public that the project is an ARRA investment throughout all phases of the project. The sign shall feature the ARRA Primary Emblem. It shall be the responsibility of the contractor to supply the project sign. The signage should be displayed in a prominent location on site. Some exclusions may apply. The Primary Emblem can also be displayed on signs at events or conferences associated with the ARRA or the individual projects funded by the ARRA. The Primary Emblem should not be displayed at a size less than 6 inches in diameter and should appear only in color. To

access the ARRA General Guidelines for Emblem and Logo Applications:
http://www.epa.gov/ogd/forms/Recovery_emblem_guide_v1%5B1%5D.pdf

A downloadable, high-resolution version of the Recovery Act emblem is available at:
www.recovery.gov/?q=node/203

Prior to erection of the ARRA project sign, the Contractor should contact the Iowa DOT to assure the proposed location is not in conflict with billboard control legislation requirements. The sign should not be located on a highway right-of-way.

B.9 Hotel-Motel Fire Safety

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the Contractor agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Contractor may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

B.10 Recycling and Waste Prevention

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007) and or 40 CFR 30.16, the Contractor agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this contract and delivered to DNR or EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

B.11 Reimbursement Limitation

DNR's financial obligations to the Contractor are limited by the amount of federal funding awarded. If the Contractor incurs costs in anticipation of receiving additional funds from DNR, the Contractor does so at its own risk. **The Contractor is responsible for ensuring that projects funded under this contract avoid unnecessary delays and are completed within the approved budget.**

B.12 Trafficking Victim Protection Act of 2000

To implement requirements of Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the following provision applies to this contract:

Prohibition Statement – The Contractor, the contractor's employees, subcontractors under this contract and subcontractors' employees may not engage in severe forms of trafficking in persons during the period of time that the contract is in effect; procure a commercial sex act during the period of time that the contract is in effect; or use force labor in the performance of the contract or subcontracts under the contract.

B.13 Energy Efficiency

The Contractor shall comply with mandatory standards and policies on energy efficiency contained in the state's energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

B.14 Informal Dispute Resolution

The DNR and the Contractor may negotiate contract-specific dispute resolution procedures.

B.15 Litigation Responsibilities

It is anticipated the Contractor may be called upon to provide factual and expert testimony on behalf of the state, U.S. Government or political subdivisions of the state in administrative procedures or lawsuits regarding the services under this contract. The Contractor will be required

to agree to provide consultants and serve as trial witness on issues relating to the subject matter of the contract. Although this work is not included in the Statement of Work of this contract, the hourly rate for such work shall be the same as for the other work carried out under the contract. Certain reports or other work may be undertaken at the direction of US Government or state attorneys. Such work shall constitute trial preparation and may not be disclosed without the prior consent of those attorneys.

Attachment 1

IOWA DEPARTMENT OF NATURAL RESOURCES RIGHT OF ENTRY AND INDEMNITY AGREEMENT

This **Agreement** is made this ____ day of _____, 20____, by and between _____ ("**Property Owner**"), and _____ ("**The Contractor**") (jointly the "**Parties**").

The Iowa Department of Natural Resources ("**DNR**") has entered into a contract ("**Contract**") with **The Contractor** to conduct certain environmental corrective action at the underground storage tank (UST) site located at _____, Iowa (the "**Property**") and identified by **DNR** Registration No. _____ and **DNR** LUST No. _____.

This corrective action may involve the removal of USTS, excavation of soil and surface covering, the placement of temporary boreholes and permanent groundwater monitoring wells, periodic onsite sampling of soil and groundwater and other remedial action. The **Parties** wish to establish reasonable terms for access to the **Property**, now and in the future.

The **Parties**, for valuable consideration, agree to the following:

1. **Property Owner** is an owner of the **Property** and authorized to grant access to the real estate as provided in this agreement.
2. **Property Owner** agrees to allow **The Contractor** , it agents, employees and assigns, the right to enter the **Property** for the purpose of permanently closing USTS by removal or filling in place and completing a Tier 1 site assessment in accordance with **DNR** administrative rules contained in Chapter 567 IAC 135 and the **Contract**. This corrective action may include periodic soil and groundwater sampling, soil and surface covering removal, the placement of temporary boreholes and permanent groundwater monitoring wells and other corrective action as directed by the **DNR** .
3. **The Contractor** agrees to provide the **Property Owner** reasonable notice in advance of entry to the **Property** and a reasonable description of the actions to be taken on the **Property**.
4. **The Contractor** agrees to reasonably restore the property to the condition immediately prior to entry. If concrete is required to be removed in the course of removing USTS and associated piping and equipment, **The Contractor** agrees to replace the concrete with gravel.
5. **The Contractor** agrees to indemnify the **Property Owner** for all claims, losses, damages or reasonable expenses to the extent they arise out of the performance of activities by **The Contractor**, its agents, employees and assigns conducted on the **Property**.
6. This **Agreement** is effective upon execution by all parties. This **Agreement** shall terminate upon written notice from the **DNR** that **The Contractor** has completed its obligations for corrective action at the **Property** as provided in the **Contract**.

Property Owner

Dated this ____ day of _____, 20__.

Project Manager
(Name of Contractor)

Dated this ____ day of _____, 20__.

Attachment 2

WORK PROPOSAL
DNR CONTRACT NO. _____
IOWA LUST ARRA PROJECT

Contractor Name: _____

Signature of Contractor Contact Person _____

Telephone Number of Contractor Contact _____

DNR Registration Number: _____ DNR LUST Number: _____

UST Address and City: _____

Property Owner: _____

Date Prepared: _____

WORK TASK DESCRIPTION*	UNITS	QTY	UNIT PRICE	Subtotal
(Examples: mobilization	lump sum	1	\$250.00	\$250.00)
(CADR Report	each	1	\$900.00	\$900.00)

***If Contractor believes Davis Bacon (DB) prevailing wage rates apply to work tasks, please indicate type of work, all types of laborers and anticipated start date below. DNR will determine the appropriate wage rate and inform the Contractor. This may result in a revised Work Proposal. After DB wage is determined and Work Proposal is approved by DNR, Contractor must include a provision in any subcontract requiring the subcontractor to follow the DB wage determination incorporated in the Work Proposal. All subcontracts must be submitted and approved by DNR before work can proceed.**

TOTAL COST:

\$

Above tasks will be performed according to the terms, conditions and costs outlined in the DNR Contract Number noted above.

DNR Project Manager

Acceptance Date